

**Notice of Allowability**

Application No.

10/625,205

Examiner

Kanji Patel

Applicant(s)

DAVIS, JASON

Art Unit

2624

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/26/06 AND 7/22/03.
2. ☒ The allowed claim(s) is/are 1-22.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☒ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date See Continuation Sheet
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

Continuation of Attachment(s) 3. Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date: 1/21/05, 5/18/05, 7/14/05.

## DETAILED ACTION

### *Election/Restrictions*

1. This application contains claims directed to the following patentably distinct species:

**Species I:** shown in Figure 1-6 and described beginning at page 14, line 1 to page 28 line 3 of the specification (corresponding to claims 1-22).

**Species II:** shown in Figure 7-10 and described beginning at page 28 line 4 to page 31 line 10 of the specification (corresponding to claims 23-47).

The species are independent or distinct because they are not disclosed as capable of use together, and they have different operation and effect (MPEP § 802.01 and. § 806.06).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there is no generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after

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the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

During a telephone conversation with Weinzimmer, Russel on 10/25/06 a provisional election was made without traverse to prosecute the invention of Specie I, **claims 1-22**. Affirmation of this election must be made by applicant in replying to this Office action. **Claims 23-47** are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### **EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Weinzimmer, Russel on 10/25/06.

The application has been amended as follows:

**In the claims:**

**Cancel claims 23-47**

***Information Disclosure Statement***

2. Information Disclosure Statement submitted on 1/21/05, 5/18/05 and 7/14/05 have been considered by the examiner.

***Drawings***

3. Drawings filed on 7/22/3 have been objected by the Draftsperson (see attached Form PTO-948).

***Allowable Subject Matter***

4. The following is an examiner's statement of reasons for allowance:

**Claims 1-22** are allowed.

The closest prior art to Melikina et al. (US 6,636,634 B2) disclose a system and method for locating a pattern in an image while the second closest prior art Jojic et al. (US 6,785,419 B1) disclose a system and method to facilitate pattern recognition by deformable matching. Non of the prior art teaches "dividing the plurality of features into a plurality of sub-pluralities, each sub-plurality representing a sub-pattern in the image, a plurality of the sub-patterns representing the deformed pattern, determining a distance between each pair of sub-patterns of the plurality of sub-pluralities, selecting a first sub-pattern to locate in the image, locating the first sub-pattern in the image so as to provide a first sub-pattern location, using the first sub-pattern location to select a second sub-pattern to locate in the image, locating the second sub-pattern in the image so as to provide a second sub-pattern location and using the first sub-pattern location and the second sub-pattern location to determine a location of the deformed pattern".

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**Other prior art cited**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yukawa et al. (US 6,909,798 B1) disclose a method of erasing repeated patterns and pattern defect inspection device.

Shibata et al. (US 6,691,145 B1) disclose a computing circuit, computing apparatus, and semiconductor computing circuit.

Kaga et al. (US 5,161,201) disclose a method of and apparatus for measuring pattern profile.


Ueno et al. (US 5,206,917) disclose a method for collating independent figure elements between images.

### **Contact Information**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kanji Patel whose telephone number is (571) 272-7454. The examiner can normally be reached on Monday to Thursday from 8 a.m. to 6:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bella, Matthew can be reached on (571) 272-7778. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kanji Patel  
Art Unit 2624  
10/27/06

  
**KANJIBHAI PATEL**  
**PRIMARY EXAMINER**